

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 78922352 for the mark
VELVET IN DUPONT in International Class 41
Published for Opposition in the Official Gazette of July 17, 2007

E.I. Du PONT DE NEMOURS AND COMPANY,
Opposer,

Proceeding No. 91180460

v.

APPLICANT'S SUPPLEMENTAL
OBJECTION TO OPPOSER'S FIRST
REQUESTS FOR ADMISSIONS

MELISSA J. TERZIS,

Applicant.

JUNE 10, 2008

Commissioner For Trademarks,
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451



06-12-2008

U.S. Patent & TM Office/TM Mail Rpt 01: #34

APPLICANT'S SUPPLEMENTAL
OBJECTION TO OPPOSER'S FIRST REQUESTS FOR ADMISSIONS

Applicant, Melissa J. Terzis, an individual residing at the Admiral Dupont
Condominium located at 1700 17th Street NW, Washington, D.C. 20009, hereby files a
Supplemental Objection to Opposer's First Requests for Admissions dated May 19, 2008,
but received by the Applicant and Applicant's attorney on May 21, 2008.

A. APPLICANT'S OBJECTION TO OPPOSER'S FIRST REQUESTS
FOR ADMISSIONS SHOULD BE SUSTAINED

As previously enumerated in Applicant's Objection to Opposer's First Requests
for Admissions dated May 23, 2008:

a. the Discovery Order dated and mailed by the United States Patent and
Trademark Office, Trademark Trial and Appeal Board, on October 31, 2007, mandated
that the "Discovery Period Was to Close on May 18, 2008"(emphasis added);

b. there was never any Request made by the Opposer for an Extension of Time within which to file its First Requests for Admissions;

c. no order was ever issued by the United States Patent and Trademark Office granting any extension of time to Opposer for the filing of its First Requests for Admissions from May 18, 2008 to any later date;

d. during the period from October 31, 2007 until May 18 , 2008, a period of more than Six and Two/Thirds ($6 \frac{2}{3}$) months and over Two Hundred (200) Days, the Opposer never conducted any Discovery of any type or kind whatsoever in this matter even though Opposer was ordered to do so by the Discovery Order of October 31, 2007;

e. during the period from October 31, 2007 until May 18, 2008, a period of more than Six and Two/Thirds ($6 \frac{2}{3}$) months and over Two Hundred (200) Days, the Opposer never contacted the attorney for the Applicant either in writing or by telephone to request a continuance or extension of time for any Discovery of any type or kind whatsoever in this matter;

f. thus, it is patently clear that the Opposer did ABSOLUTELY NOTHING with respect to any Discovery in this matter during the period from October 31, 2007 through May 18, 2008, a period of more than Six and Two/Thirds ($6 \frac{2}{3}$) months and over Two Hundred (200) Days; and

g. therefore, there can be no doubt that the Opposer willfully failed to comply with the Discovery Order made by the United States Patent and Trademark Office, Trademark Trial and Appeal Board, on October 31, 2007.

**B. APPLICANT'S SUPPLEMENTAL OBJECTION TO OPPOSER'S FIRST
REQUESTS FOR ADMISSIONS SHOULD BE SUSTAINED**

On October 31, 2007, Opposer filed a prolix Notice of Opposition alleging eleven (11) grounds for opposition.

On December 3, 2007, Applicant filed a detailed ANSWER DENYING each and every one of the eleven (11) allegations, together with a Preliminary Statement.

On May 21, 2008, in violation of the Court's Discovery Order, the Opposer filed its Opposer's First Requests for Admissions listing thirteen (13) requests for admission. A careful review of the First Requests for Admissions substantially tracks the language and effect of the eleven (11) allegations in Opposer's prolix October 31, 2007 Notice of Opposition.

Since the Applicant's detailed ANSWER dated December 3, 2007 denies each and every of the Eleven (11) allegations in Opposer's prolix Notice of Opposition, no useful purpose is served by Opposer serving its First Requests for Admissions asking for the denial or admission of the same information in its Notice of Opposition which has been DENIED in its entirety by the Applicant in its ANSWER on December 3, 2007.

In addition, Opposer's Requests for Admissions Nos. 1, 4, 5, 6, 7, 8 and 9 allege that Opposer's apparently had a mark that was famous in the United States which Applicant has already denied any knowledge in its ANSWER dated December 3, 2007.

Moreover, Opposer's Requests for Admissions Nos. 2 and 3 attempting to suggest without any evidence or proof that "Applicant was aware of Opposer's use of the DuPont Mark" has no basis in fact or in law in any Discovery proceeding particularly since it is pure unadulterated nonsense and, in addition, it was denied in Applicant's ANSWER dated December 3, 2007.

As for Opposer's Requests for Admissions Nos. 10, 11, 12 and 13 suggesting without any evidence or proof whatsoever that the Applicant's trademark VELVET IN DUPONT (Serial Number 78/922,352) "is likely to cause confusion and dilution as to registration, and confusion and dilution as to use", was COMPLETELY DENIED IN APPLICANT'S ANSWER, COMPLETELY NEGATED BY THE PRELIMINARY STATEMENT INCLUDED IN APPLICANT'S ANSWER, COMPLETELY REBUTTED BY THE TWENTY PICTURES OF AT LEAST TWENTY DIFFERENT DUPONT CIRCLE AREA BUSINESSES USING THE NAME DUPONT (ONE WORD) AND DUPONT CIRCLE IN AND AROUND THE DUPONT CIRCLE AREA OF WASHINGTON, D.C. INCLUDED IN THE PRELIMINARY STATEMENT.

WHEREFORE, the Applicant, Melissa J. Terzis, hereby moves the United States Patent and Trademark Office, Trademark Trial and Appeal Board, as follows:

1. that the Objection by the Applicant to the Opposer's First Requests for Admissions should be SUSTAINED particularly since the Opposer failed to comply with the Court's Discovery Order of October 31, 2007;
2. since the party failing to comply with the Discovery Order rendered by the United States Patent and Trademark Office, Trademark Trial and Appeal Board was the Plaintiff - Opposer, E.I. Du PONT DE NEMOURS AND COMPANY, the Applicant, Melissa J. Terzis, moves the Court for the entry of a Judgment of Dismissal of their Notice of Opposition dated October 31, 2007 for the Plaintiff - Opposer's failure to comply with the Court Order;
3. the Applicant, Melissa J. Terzis, further moves the Trademark Trial and

Appeal Board for an Order sanctioning the attorneys for the Opposer, Crowell & Moring LLP, Attorney Dickerson M. Downing and Attorney Christine Kornett for their frivolous and untimely First Requests for Admissions and their failure to comply with the Discovery Order, together with the imposition of reasonable attorney's fees and costs;

4. the Applicant hereby requests that the Notice of Opposition filed by E. I. DuPont de Nemours and Company on October 31, 2007 be DENIED, and that the registration of the trademark VELVET IN DUPONT (Serial Number 78/922,352) be GRANTED; and

5. that the Supplemental Objection by the Applicant to the Opposer's First Requests dated June 10, 2008 for Admissions should be SUSTAINED particularly since the Opposer failed to comply with the Court's Discovery Order of October 31, 2007, the Opposer filed a frivolous First Request for Admissions on May 21, 2008 wherein the Admissions were previously DENIED by the Applicant in its ANSWER AND PRELIMINARY STATEMENT dated December 3, 2007.

APPLICANT, MELISSA J. TERZIS

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Dated: Washington, D.C. 20009
On June 10, 2008

APPLICANT, MELISSA J. TERZIS

By John E. Terzis
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ORDER

The foregoing Supplemental Objection to Opposer's First Requests for Admissions having been heard is hereby SUSTAINED. OVERRULED.

Since the Plaintiff – Opposer failed to comply with the Court ordered Discovery Order of October 31, 2007, the Court hereby Orders that a Judgment of Dismissal be entered as to the Notice of Opposition filed by the Plaintiff – Opposer on October 31, 2007.
GRANTED. DENIED.

The Motion for the sanctioning of the attorneys for the Opposer, Crowell & Moring LLP for their frivolous and untimely First Requests for Admissions and their failure to comply with the Discovery Order having been heard is hereby GRANTED. DENIED.

and the Court imposes reasonable attorneys fees and costs against Plaintiff – Opposer and its attorneys Crowell & Moring LLP, Attorney Dickerson M. Downing and Attorney Christine Kornett in the amount of \$ _____ jointly and severally.


By the Court

Dated: _____

Judge/Clerk

Certificate of Mailing

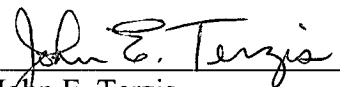
I hereby certify that the original Objection is being deposited with the United States Postal Service with sufficient postage as First-Class mail in an envelope addressed to the Commissioner of Trademarks, Trademark Trial and Appeal Board, P.O. Box 1451 Alexandria, VA 22313-1451 on June 10, 2008.



John E. Terzis

Certificate of Service

I hereby certify that a true and complete copy of the Supplemental Objection has been served on Dickerson M. Downing, Esq., Crowell & Moring LLP, 153 East 53rd Street, 31st Floor, New York, N.Y. 10022, by mailing a copy on June 10, 2008 via the United States Postal Service with sufficient postage as First-Class mail.



John E. Terzis